



**REGION 7**

LENEXA, KS 66219

**FILED**

**August 5, 2024**

**6:42AM**

**U.S. EPA REGION 7  
HEARING CLERK**

**EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2024-0083

**This ESA is issued to:** Heartland Co-op

**At:** 301 S. East Street

Henderson, Iowa 51541

for violating of Section 112(r)(7) of the Clean Air Act.

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The United States Environmental Protection Agency, Region 7 (EPA or Complainant) and Heartland Co-op (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

Complainant, as duly delegated by the Administrator of the EPA, is the Director of the Region 7 Enforcement and Compliance Assurance Division. Respondent is Heartland Co-op, an Iowa Company whose registered office in Iowa is located at 2829 Westown Parkway Suite 350, West Des Moines, Iowa 50266.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in EPA's policies entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68," dated January 5, 2004, and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," dated December 20, 2013, are appropriate for administrative penalty action.

**ALLEGED VIOLATIONS**

On or about September 28, 2022, an authorized representative of the EPA conducted a compliance inspection of Respondent's facility located at 301 South East Street, Henderson, Iowa, to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that Respondent had violated the CAPP regulations as noted on the enclosed CAPP Inspection Findings, which is hereby incorporated by reference.

**SETTLEMENT**

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, the parties enter the ESA to settle the violations, described in the enclosed CAPP Inspection Findings, for the total penalty amount of **\$3,120**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the CAPP Inspection Findings, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations listed in the enclosed CAPP Inspection Findings and has paid the penalty of **\$3,120**.

Penalty payment shall identify Respondent by name and docket number and shall be made by electronic payment method described at <http://www.epa.gov/financial/makepayment> or by alternate method of certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, Missouri 63197.

The electronically signed ESA, a scanned copy of the completed CAPP Inspection Findings, and a copy of the information confirming payment shall be sent via email to Christina Gallick at [gallick.christina@epa.gov](mailto:gallick.christina@epa.gov). In lieu of email, the signed original ESA, a copy of the completed CAPP Inspection Findings, and a copy of the information confirming payment must be sent by certified mail to:

Christina Gallick  
Chemical Accident Prevention Section | Air Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 7 11201  
Renner Boulevard  
Lenexa, Kansas 66219.

Copies of these items must also be sent via email to:

Milady Peters  
Office of Regional Counsel  
*peters.milady@epa.gov*, and

Regional Hearing Clerk  
*R7\_Hearing\_Clerk\_Filings@epa.gov*.

Full payment of the ESA penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAPP Inspection Findings. The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

Respondent consents to receiving the filed ESA electronically at the following email address: *BBailey@heartlandcoop.com*. Respondent understands that the ESA will become publicly available upon ratification and filing.

**FOR RESPONDENT:**  
Heartland Co-op

Signature: Bill Chizek Date 6-28-24  
Name (print): Bill Chizek  
Email Address: bchizek@heartlandcoop.com  
Title (print): EUP of Operations

**FOR COMPLAINANT:**

U.S. Environmental Protection Agency

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Jodi Bruno  
Acting Director  
Enforcement and Compliance Assurance Division

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Date

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Sara Hertz Wu  
Acting Air and Cross-Cutting Issues Branch Chief  
Office of Regional Counsel

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Date

I hereby ratify the ESA and incorporate it herein by reference.

IT IS SO ORDERED.

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Karina Borromeo  
Regional Judicial Officer

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Date

**CERTIFICATE OF SERVICE**

*(To be completed by EPA)*

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Sara Hertz Wu, [hertzwu.sara@epa.gov](mailto:hertzwu.sara@epa.gov)  
Christina Gallick, [gallick.christina@epa.gov](mailto:gallick.christina@epa.gov)  
Milady Peters, [peters.milady@epa.gov](mailto:peters.milady@epa.gov)

Copy via e-mail to Respondent(s):

Brian Bailey, CFO  
Registered Agent for Heartland Co-op  
2829 Westown Parkway  
Suite 350  
West Des Moines, IA 50266  
[BBailey@heartlandcoop.com](mailto:BBailey@heartlandcoop.com)

Chuck Yochum  
Location Manager  
Heartland Co-op  
PO Box 110  
Henderson, Iowa 51541  
[cychum@heartlandcoop.com](mailto:cychum@heartlandcoop.com)

Nick Steinbach  
Director of Safety and Compliance  
2829 Westown Parkway, Suite 350  
West Des Moines, IA 50266  
[nsteinbach@heartlandcoop.com](mailto:nsteinbach@heartlandcoop.com)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Signed

Chemical Accident Prevention Provisions Inspection Findings  
CAA § 112(r) Violations

Heartland Co-op  
301 South East Street  
Henderson, Iowa 51541  
Docket No. CAA-07-2024-0083

**COMPLETE THIS FORM AND RETURN IT WITH THE ESA.**

**VIOLATIONS**

**PENALTY AMOUNT**

Hazard Assessment

Defining off-site impacts - population [40 CFR 68.30(a)]

\$300

The owner or operator failed to estimate, in the RMP, the population within a circle with its center at the point of release and a radius determined by the distance to the endpoint as defined in §68.22(a).

*Facility addressed this post inspection.*

Defining off-site impacts - population [40 CFR 68.30(c)]

\$300

The owner or operator failed to use the *most recent Census data*, or other updated information to estimate the population.

*Facility addressed this post inspection.*

Prevention Program

Safety information [40 CFR 68.48(b)]

\$750

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices.

(Note: Section 6.6.2 of ANSI/CGA G-2.1-2014, Requirements for the Storage and Handling of Anhydrous Ammonia. Owner or operator failed to mark each bulk ammonia tank with a conspicuous hazard warning label complying with 29 CFR 1910.1200.)

*Facility addressed this post inspection.*

Safety information [40 CFR 68.48(b)]

\$750

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices.

(Note: Section 5.10.8.1 of ANSI/CGA G-2.1-2014, Requirements for the Storage and Handling of Anhydrous Ammonia. Owner or operator failed to ensure that the reinforcement for the fill bulkheads/ check valves was adequately designed to prevent pull-away-while connected incidents.)

*Facility addressed this post inspection.*



Maintenance [40 CFR 68.56(a)]

\$600 x3

The owner or operator failed to implement procedures to maintain the on-going mechanical integrity of the process equipment.

(Note: Sections 5.8.16, 6.4.1, and 6.7.1.b of ANSI/CGA G-2.1-2014, Requirements for the Storage and Handling of Anhydrous Ammonia. Owner or operator failed to ensure the integrity of the bulk anhydrous ammonia storage tank supports and footings, that the barriers protecting the bulk anhydrous ammonia tanks were sufficient to prevent damage to the tanks from vehicle impact, and that pressure relief valves were replaced as specified by the manufacturer or no later than 5 years following the date of its manufacture or last repair.)

*Facility addressed this post inspection.*

Total Unadjusted Penalty

\$3,900.

Calculation of Adjusted Penalty

1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during CAPP inspection matrix. Heartland Co-op has 3 full time employees at its Henderson location and 397,589 pounds, or 39.7 times, the threshold quantity of anhydrous ammonia. Finding the row for 0-9 employees and the column for >10 times the threshold quantity of 10,000 pounds of anhydrous ammonia as listed in 40 C.F.R. 68.130 for the amount in a process gives a multiplier factor of 0.8. Therefore, the multiplier for Heartland Co-op = 0.8.

2<sup>nd</sup> Adjusted Penalty = \$3,900 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier) Adjusted Penalty = \$3,120.

3<sup>rd</sup> An Adjusted Penalty of \$3,120 will be assessed to Heartland Co-op for Violations found during the compliance evaluation. This amount will be found in the Expedited Settlement Agreement (ESA).

**Total Adjusted Penalty**

**\$3,120.**

This section must be also completed and signed by **Heartland Co-op**:

The approximate cost to correct the above items: \$ 2000<sup>00</sup>

Compliance staff name: Bill Chizek

Signed:  Date: 6-28-24